

# MEMORANDUM

Agenda Item No. 8(L)(3)

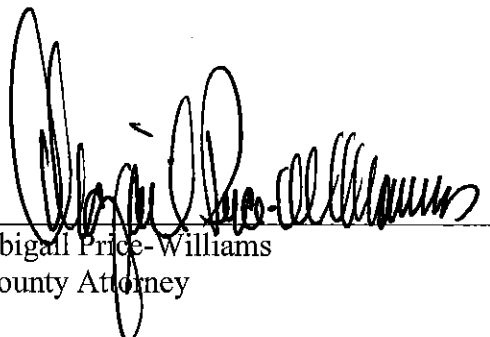
**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** November 1, 2016

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Resolution authorizing Historic  
Reservation Ad Valorem Tax  
Exemption for the Rehabilitation  
of 940 Ocean Drive, Miami  
Beach, Florida, pursuant to  
Florida Statutes section 196.1997  
and section 16A-18 of the Code  
of Miami-Dade County, Florida;  
directing the Mayor to execute  
and record covenant; and  
authorizing the Mayor to exercise  
provisions contained therein

The accompanying resolution was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Bruno A. Barreiro.



Abigail Price-Williams  
County Attorney

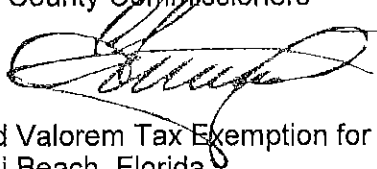
APW/cp

# Memorandum



**Date:** November 1, 2016

**To:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Historic Preservation Ad Valorem Tax Exemption for the Breakwater Hotel  
940 Ocean Drive, Miami Beach, Florida

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## **Recommendation**

It is recommended that the Board of County Commissioners (Board) authorize the ad valorem tax exemption for the property located at 940 Ocean Drive, Miami Beach, Florida, pursuant to the provisions of Florida Statutes Section 196.1997 and Section 16A-18 of the Code of Miami-Dade County.

## **Scope**

This property is located within Commission District 5, which is represented by Commissioner Bruno A. Barreiro. However, the impact of the agenda item is countywide.

## **Fiscal Impact/Funding Source**

The annual amount of ad valorem taxes to be exempted for the ten-year period is determined by applying the countywide operating millage against the taxable value of the qualifying improvements to the property. The ad valorem tax exemption is not applicable to other taxing authorities.

Based on this methodology, the estimated tax exemption for one (1) year is \$48,277. This estimate was provided by the Property Appraiser and is attached to this transmittal memorandum (see the Revenue Implications Report). However, the annual value of the tax exemption during the ten-year period may fluctuate based on adjustments to either the countywide operating millage or the Property Appraiser's taxable value of the qualifying improvements to the property. Countywide operating ad valorem property taxes will still be assessed and collected on the remaining taxable value that did not qualify for the exemption. Following the ten-year incentive period, the County will begin to assess and collect the countywide operating millage on the full value of the property, inclusive of the previous exempt improvements.

## **Track Record/Monitor**

The Assistant Director of Planning in the Department of Regulatory and Economic Resources, Mark R. Woerner, will be responsible for implementation. County Historic Preservation staff and/or the Preservation Officer of the municipality in which the property is located will conduct periodic reviews of the property to insure that the improvements are maintained for the duration of the tax abatement.

The tax exemption takes effect on January 1 following substantial completion of the improvement and extends for a ten-year period, which for this property shall begin on January 1, 2014 and will end on January 1, 2024. Failure by the owners to adhere to these standards would result in revocation of the exemption.

## **Background**

In 1993, the State legislature approved tax exemptions for historic properties and enabled local governments the option to provide this property tax exemption for eligible historic properties.

The purpose of this legislation is to encourage the preservation of historic buildings by offering an economic incentive to those property owners who take on the responsibility of restoring and maintaining a designated historic structure. The exemption is not for the entire assessed value of the property. The tax exemptions are calculated from what the value of the renovations to the historic property were, and only apply to the Countywide portion of the property's tax bill. An exemption may also be granted on the municipal portion of the property tax bill if approved by the respective municipality. Furthermore, all applicants must meet certain criteria as set forth by the Florida Department of State, Division of Historical Resources, in order for a tax exemption to be allowed, including:

- Certification that the property has been designated historic by the applicable preservation board;
- Certification that the property has received approval for the improvements by the applicable preservation board; and
- A determination that the planned improvements are consistent with the Secretary of the Interior's Standards for Rehabilitation.

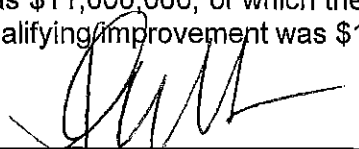
To obtain the County's ad valorem tax exemption, Part I of the application (construction plans) must be submitted prior to construction to ensure adherence to the rehabilitation standards. When the project is complete, the owner/applicant must submit Part II of the application (post-construction documentation) as well as a signed covenant. The local preservation officer must also review and authorize the work for Part I and Part II of the application.

Upon review and approval of Part II, the item can then be placed on the County's Historic Preservation Board agenda. The Property Appraiser prepares the Revenue Implications Report when they consider the project substantially complete, and provides this report to the County's Office of Historic Preservation. The tax exemption is calculated using the millage rate for the year in which the project was completed.

The Breakwater Hotel is a contributing structure in both a locally designated historic district (the Ocean Drive/Collins Avenue Historic District) and a National Register historic district (Miami Beach Architectural District). The hotel is one of the most iconic in the Ocean Drive lineup. Designed by Yugoslavian architect Anton Skislewicz, the Breakwater is a three-story, U-shaped stucco building which features a tall, vertical marquee that extends upwards beyond the third story. Much of the original lobby remained intact, including the terrazzo floors, baseboards, curved soffit above the registration desk, and the crown molding.

The rehabilitation updated the hotel with the comfort of today's guests in mind, while respecting and retaining the original character of the building. Work to the historic portions of the building included the restoration of the exterior masonry entryway and railing, repairing the patterned terrazzo floors, replacing windows with those that matched the original configurations, removal of non-historic metal railings from the marquee, and the installation of new, historically accurate signage.

Part II of the application indicates that the amount spent by the property owner on the total renovation was \$11,000,000, of which the Property Appraiser's office determined that the taxable value of the qualifying improvement was \$10,264,000.

  
\_\_\_\_\_  
Jack Osterholt  
Deputy Mayor

**HISTORIC PRESERVATION EXEMPTION  
PROPERTY TAX ASSESSMENTS / REVENUE IMPLICATIONS**

Property Address: 940 OCEAN DR  
Folio # 02-4203-284-0020

2012  
Estimate

1. Total Value of the Property	\$12,500,000
2. Value of the Improvements to the Property (The change in value due to the renovation as determined by the Property Appraiser):	\$10,264,000
3. Summary of annual taxes levied on these improvements ( Taxes = value change x 2012 millage):	210105
a) Countywide Operating	\$48,277
b) Unincorporated Municipal Service Area	\$0
c) Debt Service	\$2,925
d) City Operating (Miami Beach)	\$62,517
e) All other property taxes	<u>\$96,386</u>
	\$210,105    Total taxes

**County Revenue Implications**

Annual taxes to be foregone if this Historic Preservation  
Exemption application is granted (estimate).

a) Countywide Operating	\$48,277
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Signed: *Luis Velis*  
Property Appraiser or designee

Date: 12/17/13



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** November 1, 2016

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No. 8(L)(3)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(L)(3)  
11-1-16

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING HISTORIC  
PRESERVATION AD VALOREM TAX EXEMPTION FOR  
THE REHABILITATION OF 940 OCEAN DRIVE, MIAMI  
BEACH, FLORIDA, PURSUANT TO FLORIDA  
STATUTES SECTION 196.1997 AND SECTION 16A-18  
OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA;  
DIRECTING THE MAYOR OR DESIGNEE TO EXECUTE  
AND RECORD COVENANT; AND AUTHORIZING  
MAYOR OR DESIGNEE TO EXERCISE PROVISIONS  
CONTAINED THEREIN

**WHEREAS**, the Florida Legislature has authorized counties and local governments to grant tax exemptions to historic properties for the incremental value added by approved restoration work, provided that the owner covenants to maintain the historic nature of the property during the term of the tax exemption; and

**WHEREAS**, Miami-Dade County has enacted enabling legislation to provide such exemption, codified at Section 16A-18 of the Code of Miami-Dade County, Florida (the "Code"); and

**WHEREAS**, the property located at 940 Ocean Drive, Miami Beach, Florida was designated as a contributing structure within a local historic district by the City of Miami Beach, and is a contributing structure within a National Register district; and

**WHEREAS**, the Miami-Dade County Historic Preservation Board, pursuant to Resolution No. 2013-07, a copy of which is attached hereto and incorporated by reference, recommended that the exemption be allowed and certified to the Board of County Commissioners that 940 Ocean Drive, Miami Beach, Florida is a contributing structure within a

local historic district, and a contributing structure within a National Register district, and that the proposed improvements are consistent with the United States Secretary of the Interior's Standards for Rehabilitation, and meets the criteria established in the rules adopted by the Department of State; and

**WHEREAS**, the property owner has executed the necessary covenant, which is attached and made part of this resolution,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that:

Section 1. The foregoing recitals are approved and incorporated in this resolution.

Section 2. This Board finds that the property, located at 940 Ocean Drive, Miami Beach, Florida, meets the requirements of Section 16A-18 of the Code and, therefore, that the application for a historic preservation tax exemption is hereby granted to 940 Ocean Drive, LLC, as the owner of the property located at 940 Ocean Drive, Miami Beach, Florida. The tax exemption hereby authorized shall run for 10 years beginning on January 1<sup>st</sup> following the date that the Property Appraiser prepares and signs the revenue implication form, which for this property shall begin on January 1, 2014 and end on January 1, 2024.

Section 3. Pursuant to Resolution No. R-974-09, the Board directs the Mayor or designee to sign the attached covenant and record it with the deed for the property in the Public Records of Miami-Dade County, Florida, and to provide a recorded copy of the covenant to the Clerk of the Board within 30 days of execution of said covenant, and directs the Clerk of the Board to attach and permanently store a recorded copy of the covenant together with this resolution.

Section 4. The Mayor or designee is authorized to exercise the provisions contained in the covenant.

The foregoing resolution was offered by Commissioner  
who moved its adoption. The motion was seconded by Commissioner  
and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	
Esteban L. Bovo, Jr., Vice Chairman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 1<sup>st</sup> day of November, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

James Eddie Kirtley







MIAMI-DADE COUNTY  
HISTORIC PRESERVATION BOARD  
STEPHEN P. CLARK CENTER  
111 N. W. FIRST STREET  
MAILBOX 114, OFFICE LOCATION 12<sup>th</sup> Floor  
MIAMI, FLORIDA 33128  
305-375-4958

MIAMI-DADE COUNTY  
**HISTORIC PRESERVATION BOARD**

**Resolution # 2013-07**

**THE BREAKWATER HOTEL  
940 OCEAN DRIVE, MIAMI BEACH  
A CONTRIBUTING PROPERTY WITHIN A LOCALLY  
DESIGNATED HISTORIC DISTRICT AND  
NATIONAL REGISTER DISTRICT**

**WHEREAS**, the Miami-Dade Historic Preservation Board has determined that the property located at 940 Ocean Drive, Miami Beach is of architectural and historic significance and is a contributing property within a locally designated historic district; and

**WHEREAS**, the improvements to the property have met the Secretary of the Interior's Standards for Rehabilitation to the satisfaction of this Board; and

**WHEREAS**, the improvement to the historic portions of the property have met the criteria established in the rules adopted by the Department of State; and

**WHEREAS**, the property is located at 940 Ocean Drive, Miami Beach, with a legal description as such:

**LEGAL DESCRIPTION:** THE BREAKWATER CONDO UNIT HOTEL UNDIV 50% INT in COMMON ELEMENTS OFF REC 22754-0480 COC 26381-4891 05 2008 2, THE BREAKWATER CONDO UNIT RESTAURANT UNDIV 50% INT IN COMMON ELEMENTS OFF REC 22754-0480 OR 22754-0566 09 2004 1

**FOLIO NUMBER:** 02-4203-284-0020, 02-4203-284-0010



MIAMI-DADE COUNTY  
HISTORIC PRESERVATION BOARD  
STEPHEN P. CLARK CENTER  
111 N. W. FIRST STREET  
MAILBOX 114, OFFICE LOCATION 12<sup>th</sup> Floor  
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305-375-4958

**Resolution # 2013-07**


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**NOW, THEREFORE LET IT BE RESOLVED**, that the Historic Preservation Board on September 18, 2013, voted to approve the Ad Valorem Tax Exemption for 940 Ocean Drive, Miami Beach, FL and, therefore, recommends to the Board of County Commissioners of Miami-Dade County, Florida, that the property receive the tax exemption for historic properties for the

County's portion of the millage pursuant to 16A-18 Miami-Dade County Code. This recommendation has been conditioned upon the following which were presented to the Board:

1. The completed rehabilitation project was reviewed and approved by the municipal Historic Preservation Officer and is in accordance with the documents and plans presented to and approved by this Board.
2. The filing of an appropriate covenant approved by the County Attorney.
3. The rehabilitation project is reviewed and evaluated by the county Property Appraiser with the completion of a "Historic Preservation Revenue Implications Report."

Prepared by:

  
Kathleen Kauffman, Chief  
Office of Historic Preservation



MIAMI-DADE COUNTY  
HISTORIC PRESERVATION BOARD  
STEPHEN P. CLARK CENTER  
111 N. W. FIRST STREET  
MAILBOX 114, OFFICE LOCATION 12<sup>th</sup> Floor  
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**Resolution # 2013-07**

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<u>Board Members</u>	<u>Vote</u>
Ruth Campbell	YES
Adriana Cantillo	ABSENT
Rick Cohen	YES
Paul George	YES
Robert McKinney	YES
Mitch S. Novick, Chair	YES
Edmundo Perez	YES
JoEllen Phillips	YES
Enid C. Pinkney	ABSENT
Ronda Vangates	ABSENT

MIAMI-DADE COUNTY

**HISTORIC PRESERVATION PROPERTY TAX EXEMPTION COVENANT**

This Covenant is made on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by 940 Ocean Drive LLC (hereinafter referred to as  
the Owner) and in favor of MIAMI-DADE COUNTY (hereinafter referred to as the  
Local Government) for the purpose of the restoration, renovation or rehabilitation, of a certain  
Property located at 940 Ocean Drive, Miami Beach FL

which is owned in fee simple by the Owner and is listed in the National Register of Historic  
Places or locally designated under the terms of a local preservation ordinance or is a  
contributing property to a National Register listed district or a contributing property to a  
historic district under the terms of a local preservation ordinance.

The areas of significance of this property, as identified in the National Register nomination or  
local designation report for the property or the district in which it is located are  
X architecture, X history,    archaeology.

The Property is comprised essentially of grounds, collateral, appurtenances, and  
Improvements. The property is more particularly described as follows: (include folio number  
and legal description, consisting of repository, book, and page numbers) \_\_\_\_\_

Folio numbers: 02-4203-284-0020, 0242032840010

Legal descriptions: THE BREAKWATER CONDO UNIT HOTEL UNDIV 50% INT IN  
COMMON ELEMENTS OFF REC 22754-0480 COC 26381-4891 05 2008 2; THE BREAKWATER  
CONDO UNIT RESTAURANT UNDIV 50% INT IN COMMON ELEMENTS OFF REC 22754-0480 OR  
22754-0566 09 2004 1

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In consideration of the exemption granted by the Local Government, the Owner hereby agrees to the following for the ten-year period beginning on January 1st after the improvements are substantially completed:

1. The Owner agrees to assume the cost of the continued maintenance and repair of said Property so as to preserve the architectural, historical, or archaeological integrity of the same in order to protect and enhance those qualities that made the Property eligible for listing in the National Register of Historic Places or designation under the provisions of the local preservation ordinance.

2. The Owner agrees that no visual or structural alterations will be made to the Property without prior written permission of the Local Historic Preservation Office.

The address of the certified Local Historic Preservation Office with review jurisdiction is:

Name of Office/Agency: City of Miami Beach Planning and Zoning Department

Address: 1700 Convention Center Drive

City: Miami Beach Zip: 33139 Phone: 305.673.7550

Contact Person: William Cary Title: Assistant Director

Email: williamcary@miamibeachfl.gov

3. (Only for properties of archaeological significance) The Owner agrees to ensure the protection of the site against willful damage or vandalism. Nothing in this Covenant shall prohibit the Owner from developing the site in such a manner that will not threaten or damage the archaeological resource, provided that permission for alteration of the site is obtained pursuant to 2. above.

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4. The Owner agrees that the Local Historic Preservation Office and appropriate representatives of the Local Government, their agents and designees shall have the right to inspect the Property at all reasonable times in order to ascertain whether or not the conditions of this Covenant are being observed.

5. In the event of the non-performance or violation of the maintenance provision of the Covenant by the Owner or any successor-in-interest during the term of the Covenant, the Local Historic Preservation Office will report such violation to the Property Appraiser and Tax Collector who shall take action pursuant to s.196.1997 (7), F.S. The Owner shall be required to pay the difference between the total amount of taxes which would have been due in March in each of the previous years in which the Covenant was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in s.212.12(3), F.S.

6. If the Property is damaged by accidental or natural causes during the Covenant period, the Owner will inform the Local Historic Preservation Office in writing of the damage of the Property, including (1) an assessment of the nature and extent of the damage; and (2) an estimate of the cost of restoration or reconstruction work necessary to return the Property to the condition existing at the time of project completion. In order to maintain the tax exemption, the Owner shall complete the restoration or reconstruction work necessary to return the Property to the condition existing at the time of project completion on a time schedule agreed upon by the Owner and the Local Historic Preservation Office.

7. If the Property has been destroyed or severely damaged by accidental or natural causes, that is, if the historical integrity of the features, materials, appearance, workmanship, and

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environment, or archaeological integrity which made the property eligible for listing in the National Register of Historic Places or designation under the terms of the local preservation ordinance have been lost or so damaged that restoration is not feasible, the Owner will notify the Local Historic Preservation Office in writing of the loss. The Local Historic Preservation Office will evaluate the information provided and notify the Owner in writing of its determination regarding removal of the Property from eligibility for tax exemption.

If the Local Historic Preservation Office determines that the property should be removed from eligibility for tax exemption, it will notify the Property Appraiser of the county in which the Property is located in writing so that the tax exemption can be cancelled for the remainder of the Covenant period. In such cases, no penalty or interest shall be assessed against the Owner.

8. If it appears that the historical integrity of the features, materials, appearance, workmanship, and environment, or archaeological integrity which made the Property eligible for listing in the National Register of Historic Places or designation under the terms of the local preservation ordinance have been lost or damaged deliberately or through gross negligence of the Owner, the Local Historic Preservation Office shall notify the Owner in writing. The Owner shall have 30 days to respond indicating any extenuating circumstances which show that the damage was not deliberate or due to gross negligence.

If the Owner cannot show such extenuating circumstances, he shall develop a plan for restoration of the Property and a schedule for completion of the restoration. In order to maintain the tax exemption, the Owner shall complete the restoration work necessary to return the Property to the condition existing at the time of project completion on a time schedule agreed upon by the Owner and the Local Historic Preservation Office. If the owner does not complete the restoration work on the agreed upon time schedule, the Local Historic Preservation Office will report such violation to the Property Appraiser and Tax Collector who

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shall take action pursuant to s.196.1997 (7), F.S. The Owner shall be required to pay the difference between the total amount of taxes which would have been due in March in each of the previous years in which the Covenant was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in s.212.12(3), F.S.

9. The terms of this Covenant shall be binding on the current Property owner, transferees, and their heirs, successors, or assigns.

This Covenant shall be enforceable in specific performance by a court of competent jurisdiction.

OWNER(S):

940 Ocean Drive, LLC

\_\_\_\_\_  
Name

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

CERTIFIED LOCAL GOVERNMENT REPRESENTATIVE:

Deborah Tackett

\_\_\_\_\_  
Name

Preservation & Design Manager

\_\_\_\_\_  
Title

  
\_\_\_\_\_  
Signature

6/7/16  
\_\_\_\_\_  
Date

COUNTY REPRESENTATIVE:

\_\_\_\_\_  
Carlos A. Gimenez, Mayor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date